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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 10 September 2004 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Turkmenistan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's note verbale No. SCA/10/04/(02) dated 21 June 2004, has the honour to transmit herewith the first report of the Government of Turkmenistan in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 10 September 2004 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Initial report of Turkmenistan on measures taken in implementation of Security Council resolution 1540 (2004)

The present report was prepared in accordance with paragraph 4 of Security Council resolution 1540 (2004) and is to be submitted, in implementation of that resolution, to the Security Council Committee established in accordance with rule 28 of the Council's provisional rules of procedure.

Paragraph 1 of Security Council resolution 1540 (2004)

The Constitutional Law of Turkmenistan on the permanent neutrality of Turkmenistan and the Foreign-policy concept of Turkmenistan as a neutral State, adopted by the Khalk Maslakhaty (People's Council) of Turkmenistan on 27 December 1995, states that "Turkmenistan shall not possess, produce or spread nuclear, chemical, bacteriological or other types of weapons of mass destruction or help to create new types or technologies for their production".

Paragraph 2 of Security Council resolution 1540 (2004)

Article 271 of the Penal Code of Turkmenistan, on terrorism, adopted on 12 June 1997, states the following:

> "(1) Terrorism, that is, causing an explosion or committing arson or other actions which create the danger of loss of life, cause considerable property damage or result in other dangerous consequences for society, if these actions are committed for the purpose of breaching public security, frightening the population or influencing decision-making by the authorities, as well as the threat to commit such actions for these purposes, shall be punished by imprisonment for 5 to 10 years.
>
> (2) The same acts committed:
>
> (a) Repeatedly;
>
> (b) With the use of firearms;
>
> (c) By a group of persons acting on the basis of prior agreement,
>
> Shall be punished by imprisonment for 8 to 15 years.
>
> (3) The acts provided for under paragraphs 1 and 2 of this article which cause the death of a person or are committed by an organized group or a criminal association, shall be punished by imprisonment for 10 to 20 years."

Article 1, paragraph 4, of the Act of 15 August 2003 on combating terrorism contains the following definition of the term "terrorists act": "A terrorist act is the direct commission of a terrorist offence in the form of an explosion, arson, or the use or threat of the use of nuclear explosive devices; radioactive, chemical,

biological, bacteriological, explosive, toxic, noxious or poisonous materials and so forth".

In accordance with article 6 of the Act, the President and Cabinet of Ministers of Turkmenistan exercise general leadership in combating terrorism and provide the necessary forces, means and resources for that purpose. The State agencies directly involved in combating terrorism within the scope of their authority are:

- The Ministry of National Security,
- The Ministry of Internal Affairs,
- The Security Service of the President of Turkmenistan,
- The State Service for the Registration of Foreign Nationals,
- The State Border Service,
- The State Customs Service,
- The General Prosecutor's Office and others.

In accordance with article 24 of the Act on combating terrorism, an organization which has carried out terrorist activities is recognized as a terrorist organization and is subject to disbandment on the basis of decision by a kazyeta (court). When an organization that is recognized as a terrorist organization is disbanded, its property is confiscated and sold in accordance with the procedure established by law, and the proceeds are transferred to the centralized budget of Turkmenistan.

If an international organization (one of its sections, branches or offices) that is registered outside Turkmenistan is recognized as a terrorist organization by the court in question, activities by the organization are prohibited in the territory of Turkmenistan, its sections (branches or offices) are closed, and property belonging to them as well as the property of the international organization in question situated in the territory of Turkmenistan are confiscated and sold in accordance with the procedure established by law, and the proceeds are transferred to the centralized budget of Turkmenistan.

Article 3 (a) of Security Council resolution 1540 (2004)

Article 283 of the Penal Code of Turkmenistan, on the illegal handling of radioactive materials, provides that:

> "(1) The illegal acquisition, possession, use, transfer or destruction of radioactive materials shall be punished by imprisonment for up to two years.
>
> (2) These same acts, if they, through carelessness, cause the death of an individual or other grave consequences shall be punished by imprisonment for up to five years."

Article 284 of the Penal Code, on violations of the regulations governing the handling of radioactive materials, provides that:

"Violations of the regulations governing the possession, use, registration or transport of radioactive materials and other regulations governing their handling, if these actions entail grave consequences,

Shall be punished by imprisonment for two to seven years."

Article 285 of the Penal Code, on the theft or extortion of radioactive materials, provides for the following:

"(1) The theft or extortion of radioactive materials shall be punished by imprisonment for up to five years.

(2) The same acts, if they are committed:

(a) Repeatedly;

(b) By a group of persons acting on the basis of prior agreement;

(c) By a person using his official position;

(d) With the use of force that does not endanger life or health;

Shall be punished by imprisonment for three to eight years.

(3) The theft or extortion of radioactive materials, carried out with the use of force endangering life or health, or by an organized group or criminal association shall be punished by imprisonment for five to ten years with or without confiscation of property."

Paragraph 3 (c) of Security Council resolution 1540 (2004)

In accordance with article 254 of the Penal Code on smuggling,

"(1) Smuggling, that is, the transport in large quantities across the customs border of Turkmenistan of goods or other objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, except for the goods and objects indicated in paragraph 2 of this article, which is carried out without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or which is accompanied by a failure to declare goods or a false declaration, shall be punished by a fine of 25 to 50 times the average monthly wage or by corrective work for up to two years or imprisonment for up to three years with or without confiscation of property.

(2) The acts provided for under paragraph 1 of this article which are carried out:

(a) Repeatedly;

(b) By a group of persons acting on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control;

Shall be punished by imprisonment for two to five years.

(3) Transport across the customs border of Turkmenistan of narcotics; psychotropic, virulent, toxic, poisonous, radioactive or explosive substances; arms; explosive devices; firearms or ammunition; nuclear, chemical, biological and other types of weapons of mass destruction; materials and equipment which may be used to create weapons of mass destruction and in respect of which special regulations have been established governing transport across the customs border of Turkmenistan; strategically important raw materials; valuable cultural objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, if these acts are committed without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or are accompanied by a failure to declare goods or a false declaration of goods,

Shall be punished by imprisonment for three to eight years with or without confiscation of property.

(4) The acts provided for under paragraph 3 of this article which are committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control;

Shall be punished with imprisonment for five to ten years with or without confiscation of property."

The State Border Service of Turkmenistan combats terrorism by preventing, detecting and suppressing attempts by terrorists to cross the State border of Turkmenistan and also the illegal transport across the State border of arms; or explosive, poisonous, radioactive substances and other objects which may be used as means for committing terrorist offences, and participates in ensuring the security of national maritime navigation within the territorial waters and the economic zone of Turkmenistan and in carrying out anti-terrorist operations in accordance with article 8, paragraph 7, of the Act of 15 August 2003 on combating terrorism.

The State Customs Service of Turkmenistan, in accordance with its mandate, combats terrorism by suppressing attempts to transport illegally into the territory of Turkmenistan arms; ammunition; explosive, poisonous and radioactive substances and materials; printed and other materials containing calls for the overthrow of the existing constitutional structure and the commission of other acts which undermine public security or are aimed at the physical elimination of State leaders or the wilful disobedience of legal requirements and public morals, in accordance with article 8, paragraph 8, of the Act of 15 August 2003 on combating terrorism.

Paragraph 8 of Security Council resolution 1540 (2004)

Turkmenistan is a party to the following multilateral international legal documents:

The Nuclear Non-Proliferation Treaty (23 September 1994);

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (23 September 1994);

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (24 November 1995);

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (18 June 1996);

The Comprehensive Nuclear Test-Ban Treaty (6 February 1998).

In accordance with article 15 of the Act on the procedure for concluding, implementing and denouncing international treaties of Turkmenistan, of 15 June 1995, "the international treaties to which Turkmenistan is a party are subject to strict observance by Turkmenistan through its State agencies in accordance with the norms of international law".

Under article 16 of the Act, "the President and Cabinet of Ministers of Turkmenistan shall take steps to ensure the implementation of the international treaties to which Turkmenistan is a party".

Article 17 of the Act provides that "the State agencies of Turkmenistan, whose mandate includes questions regulated by international treaties to which Turkmenistan is a party shall ensure compliance with the obligations undertaken under these agreements and shall monitor the implementation of the rights of Turkmenistan deriving from the agreements and also compliance on the part of other parties to the treaties with their obligations".

Turkmenistan, in accordance with international treaties, cooperates in the area of combating terrorism with foreign States, their law enforcement agencies and special services, and also with international organizations engaged in combating terrorism; it provides assistance to other States in connection with criminal investigations and the criminal prosecution of persons linked to the financing or support of terrorist activities.

In accordance with its own national legislations and the norms of international law, Turkmenistan prevents and suppresses the financing of terrorist activities and promptly blocks funds and other financial assets, deposits, economic resources and material assets of persons who commit or attempt to commit terrorist acts or assist in their commission (article 5 of the Act on combating terrorism).

Furthermore, the process of drafting a treaty on the establishment of a nuclear-weapon-free zone in Central Asia is currently taking place, and Turkmenistan is also participating directly in it.